THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.13121 of 2006

Dated:06.07.2006

Between:

M.Murali and others.

…Petitioners

and

State of A.P., Rep by its Prl.Secretary to Government, Revenue Dept., Govt., of A.P., Hyderabad, and others.

…Respondents

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WRIT PETITION No.13121 of 2006

ORDER:

The petitioners are resident of Visakhapatnam. It is their case that their father purchased an extent of 800 square yards situated at T.S.No.1196, Block No.56, Waltair Road, Visakhapatnam, under a registered sale deed dated 01.11.1963 and was in possession of the same. Thereafter he constructed a house and also purchased the appurtenant vacant site of an extent of 400 square yards bearing premises Door No.10-5-59/1. Petitioners' father executed a Will bequeathing the house bearing No.10-50-59 to the petitioners and appointed their sister and her husband as Administrators. After the death of their father the petitioners became the absolute owners of the said property. In view of their family necessities the petitioners proposed to sell the house bearing D.No.10-50-59 and approached the Sub-Registrar for registration. The petitioners allege that the Sub-Registrar refused to entertain the documents for registration in view of G.O.Ms.No.657, dated 08.10.2001, published in the Visakhapatnam Gazette on 08.11.2001 whereunder it was notified that in exercise of the powers conferred by subsection (1) of Section

22-A of the Registration Act, 1908, as amended by Registration (A.P.Amendment) Act, 1999, registration in respect of the properties in T.S.No.1196 and various other survey numbers were declared as opposed to public policy. The same is under challenge in this writ petition.

In **State of Rajasthan v. Basant Nahata**[1], the Supreme Court struck down the provision in Registration Act as amended by the State of Rajasthan as *ultra vires.* Following the same, a Division Bench of this Court in its Judgment, dated 07.12.2005 in W.P.Nos.14099 of 2003 and batch struck down Section 22-A of the Registration Act as applicable in State of Andhra Pradesh. Therefore, the impugned notification cannot be sustained. Further, in subsequent Judgment in W.P.No.17325 of 2005 and batch, dated 20.02.2006, a Division Bench of this Court while invalidating similar notification observed as under.

> As a sequel to the above, G.O.Ms.No.810, dated 14.10.2004, is also quashed. However, it is made clear that registration of the documents of the petitioners would remain subject to the final adjudication by the Supreme Court. This would necessarily mean that if the appeal filed by the State is allowed by the Supreme Court, the registration of the documents of the petitioners shall stand automatically nullified.

Therefore, the writ petition is disposed of observing that any registration of the documents presented by the petitioners would be subject to the adjudication by the Supreme Court, and if, ultimately the Supreme Court allows the Appeal filed by the Government of Andhra Pradesh, the registration of the documents would stand automatically nullified.

The Writ Petition, subject to the above observations, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

July 06, 2006.
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[1] (2005) 12 SCC 77 = 2005 AIR SCW 4456